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SOAH DOCKET NO. 473-21-0538
PUC DOCKET NO. 51415

APPLICATION OF SOUTHWESTERN ELECTRIC POWER COMPANY FOR AUTHORITY TO CHANGE RATES	**§**	**BEFORE THE STATE OFFICE OF ADMINISTRATIVE HEARINGS**

TEXAS INDUSTRIAL ENERGY CONSUMERS' RESPONSE TO SOUTHWESTERN ELECTRIC POWER COMPANY'S FIRST REQUEST FOR INFORMATION

Texas Industrial Energy Consumers ("TIEC") files the following responses to the First Requests for Information ("RFI") to TIEC filed by Southwestern Electric Power Company ("SWEPCO"). The request was filed at the Commission and received by TIEC on February 18, 2021. Accordingly, pursuant to the procedural schedule entered in this case, TIEC's response is timely filed. TIEC's responses to specific questions are set forth as follows, in the order of the questions asked. Pursuant to 16 T.A.C. § 22.144(c)(2)(F), these responses may be treated as if they were filed under oath.

Respectfully submitted,

THOMPSON & KNIGHT LLP

/s/ James Z. Zhu

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State Bar No. 20449400
Benjamin B. Hallmark
State Bar No. 24069865
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ATTORNEYS FOR TEXAS INDUSTRIAL ENERGY CONSUMERS

CERTIFICATE OF SERVICE

I, James Z. Zhu, Attorney for TIEC, hereby certify that a copy of the foregoing document was served on all parties of record in this proceeding on this 10th day of March, 2021 by facsimile, electronic mail and/or first Class, U.S. Mail, Postage Prepaid.

/s/ James Z. Zhu
James Z. Zhu

SOAH DOCKET NO. 473-21-0538
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APPLICATION OF SOUTHWESTERN ELECTRIC POWER COMPANY FOR AUTHORITY TO CHANGE RATES	**§**	**BEFORE THE STATE OFFICE OF ADMINISTRATIVE HEARINGS**

TEXAS INDUSTRIAL ENERGY CONSUMERS' RESPONSE TO SOUTHWESTERN ELECTRIC POWER COMPANY'S FIRST REQUEST FOR INFORMATION

SWEPCO-TIEC 1-1: Please provide all communications from TIEC or on behalf of TIEC, or any of its members, to the Southwest Power Pool (SPP), or any of its representatives, that addresses SPP's treatment of electricity produced and consumed on-site behind a retail customer's meter in assessing transmission charges under the SPP Open Access Transmission Tariff.

RESPONSE:

Please see Attachment SWEPCO-TIEC 1-1 for all responsive communications from or on behalf of TIEC. TIEC is not in possession of any responsive communications from its members.

Preparer: Counsel

Sponsor: Counsel

SOAH DOCKET NO. 473-21-0538
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APPLICATION OF SOUTHWESTERN ELECTRIC POWER COMPANY FOR AUTHORITY TO CHANGE RATES	**§**	**BEFORE THE STATE OFFICE OF ADMINISTRATIVE HEARINGS**

TEXAS INDUSTRIAL ENERGY CONSUMERS' RESPONSE TO SOUTHWESTERN ELECTRIC POWER COMPANY'S FIRST REQUEST FOR INFORMATION

SWEPCO-TIEC 1-2: Please provide a list of the TIEC members that are being represented by TIEC in this proceeding.

RESPONSE:

Please see TIEC's List of Participating Members filed on the PUC Interchange for this docket on March 10, 2021.

Preparer: Counsel

Sponsor: Counsel

From:	VanMiddlesworth, Rex
Sent:	Friday, June 7, 2019 3:58 PM
To:	Paul Suskie; Charles Locke
Cc:	Coleman, Katie; McTyre, Nick
Subject:	FW: SPP Letter and Attachment
Attachments:	Memo Re SPP-BTM 06 07 19_(22426673)_(1).PDF; Ltr to Paul Suskie, Charles Locke (SPP) 06 07 2019_(22426666)_(1).PDF

Paul, attached is a courtesy copy of a letter and memorandum we mailed out to you and Charles Locke today. This follows up on our calls a while back on the treatment of energy that a retail customer provides to itself behind a retail meter. We've delved into this issue in greater depth since our last call, and the attached memorandum sets out why we believe that Section 34.4 of the SPP OATT does not require the addition of such retail self-served load to the Network Customers' Monthly Network Load.

We'd be happy to discuss this issue further at your convenience. Best, Rex

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THOMPSON & KNIGHT LLP

CONFIDENTIAL AND PRIVILEGED
ATTORNEY WORK PRODUCT
ATTORNEY/CLIENT COMMUNICATION

TO: Texas Industrial Energy Consumers (TIEC)

FROM: Rex D. VanMiddlesworth
Katie Coleman

DATE: June 7, 2019

SUBJECT: Treatment of Electricity Self-Supplied by Retail Customers

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INTRODUCTION

This memorandum addresses the Southwest Power Pool's (SPP) treatment of electricity produced and consumed on-site behind a retail customer's meter (Retail BTM Generation) in assessing transmission charges under Section 34.4 of the SPP Open Access Transmission Tariff (OATT). This analysis is limited to electricity that is produced and consumed on-site by a retail customer without the use of any SPP Network Customer's[1] electric grid. This Retail-BTM-Generation issue is distinct from the issues related to load served by generation located behind an SPP Network Customer's Delivery Point but in front of any retail customer's meter (Wholesale BTM Generation), which *does* require use of the Network Customer's grid.[2] It is also distinct from the situation for Independent System Operators or Regional Transmission Organizations where retail choice has been introduced and a retail customer itself may be the "Network Customer" under the applicable OATT. There is currently no retail customer choice within the SPP footprint.

Retail BTM Generation takes a variety of forms, including residential and commercial rooftop solar installations and qualifying small power production and cogeneration facilities (QFs). Generally, this generation is not economically dispatched; it is used as available to provide electricity behind a customer's retail meter. In some situations, particularly with QFs that are

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[1] "Network Customer" is defined as "an entity receiving transmission service pursuant to [SPP's] Network Integration Transmission Service..." SPP OATT, Section 1, Definitions.

[2] This distinction between generation behind a retail meter and generation in front of a retail meter was recognized in the most recent Revision Request developed by the SPP Regional Tariff Working Group. *See* SPP Revision Request Recommendation Report No. 241 at 5.

highly integrated with on-site industrial processes, some of the load served by the Retail BTM Generation will never be served from the grid, as any reduction in electricity and steam production from the QF will be accompanied by a reduction in electricity usage. Often the utility has no way of knowing the amount of a retail customer's on-site usage that is being served by that retail customer's own generation, since the utility is neither providing generation nor transmission and distribution (T&D) services for that usage.

Wholesale BTM Generation, on the other hand, is typically electric utility generation that is indistinguishable from a Network Resource. Rather than being fully utilized whenever available, Wholesale BTM Generation is generally economically dispatched by the Network Customer, as is other electric utility generation. Further, Wholesale BTM Generation provides electricity that the Network Customer then transmits over its electrical grid to serve the Network Customer's load.

The issues relating to Wholesale BTM Generation have been addressed on a number of occasions by the Federal Energy Regulatory Commission (FERC), which has held that a Network Customer's actual load at the time of its monthly peak is not to be reduced by the amount of its Wholesale BTM Generation.[3] Neither the language nor the rationales of those decisions, however, are applicable to electricity produced and consumed on-site by a retail customer, which is neither being provided by the Network Customer nor using its T&D system and, accordingly, is simply not a part of the Network Customer's load. With respect to SPP, neither the specific provisions of the SPP OATT nor the decisions of FERC support including a retail customer's on-site self-supplied electricity as "Network Load" for purposes of assessing transmission charges under Section 34.4 of the SPP OATT.

SECTION 34.4 OF THE SPP OATT BY ITS TERMS DOES NOT INCLUDE ELECTRICITY SELF-SUPPLIED BY A RETAIL CUSTOMER IN THE DEFINITION OF "NETWORK CUSTOMER'S MONTHLY NETWORK LOAD."

SPP assesses transmission charges to regulated utilities as "Network Customers," based on their "Network Load." In SPP, Network Customers are utilities, municipalities, and cooperatives, not end-use customers. The definition of "Network Customer's Monthly Network Load" in Section 34.4 of the SPP OATT does not include electricity that is generated and consumed on-site

[3] FERC Order Nos. 888, 888-A, and 890.

by a retail customer. The SPP OATT defines "Network Customer's Monthly Network Load" as follows:

> The Network Customer's monthly Network Load is its hourly load (60 minute, clock-hour); provided, however, the Network Customer's monthly Network Load will be *its* hourly load coincident with the monthly peak of the Zone where the Network Customer load is physically located.[4]

Note that the definition only includes the *Network Customer's* hourly load coincident with the monthly peak. The "Network Customer" is defined as the "entity receiving transmission service pursuant to [SPP's] Network Integration Transmission Service under Part III of the Tariff."[5] If a retail customer of an integrated utility is generating its own electricity behind its own meter for its own use at the time of a Network Customer's monthly peak, that use is simply not a part of the *Network Customer's* "hourly load coincident with the monthly peak." That applies whether the electricity is provided by rooftop solar or by a qualifying facility. The Network Customer is simply not providing the electricity produced and consumed on-site by a retail customer. Indeed, the Network Customer would likely not even know how much electricity, if any, the retail customer is providing to itself at the time of the monthly peak, since electricity that is self-provided is generally not even metered by the utility. In any event, electricity that is being self-provided behind a retail meter is not being provided by the utility, nor is it being delivered over the utility's T&D system. Accordingly, it cannot be fairly characterized as the *utility's* "hourly load coincident with the monthly peak."

Importantly, the above analysis does not apply to whatever portion of a Network Customer's load is being served by Wholesale BTM Generation—which does use the Network Customer's transmission or distribution system to deliver electricity to retail customers of the Network Customer. That load *is* a part of the Network Customer's load. To the extent that load is being served by Wholesale BTM Generation at the time of the monthly coincident peak, it would fall within the definition of "Network Customer's Monthly Network Load" under Section 34.4. That is not true, however, of electricity being provided by a retail customer's own on-site generation at the time of the monthly coincident peak.

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[4] SPP OATT, Section 34.4. (italics supplied)

[5] SPP OATT, Section 1, Definitions.

SPP'S NETWORK CUSTOMERS HAVE GENERALLY NOT CONSTRUED SECTION 34.4 TO INCLUDE RETAIL CUSTOMERS' SELF-SUPPLIED ELECTRICITY.

Numerous Network Customers in SPP have properly calculated their Monthly Network Load without adding in electricity that they do not supply or deliver, but that is instead self-supplied by retail customers. SPP recently surveyed its 62 transmission customers with Network Load. Those results indicate that a large number of SPP's Network Customers are properly applying Section 34.4 of the OATT and not attempting to reach behind their customers' retail meters to determine if those customers are supplying any of their own electricity.[6] The responses make clear that those Network Customers have reviewed and considered the SPP OATT and do not read it as requiring the addition of their retail customers' self-supplied electricity to the Network Customer's actual Network Load.[7]

It appears that at least one SPP utility (SPS) has adopted a different interpretation, at least in part. SPS appears to have been identifying and adding at least some of its customers' self-supplied electricity to its Network Load calculation.[8] But even SPS does not apply Section 34.4 to include all electricity self-supplied by its customers, as SPS apparently does not identify and include load served by rooftop solar or other small customer generation. But since Section 34.4 of the SPP OATT makes no distinction between large and small self-supplied loads, they must either all be included or all be excluded. SPS's idiosyncratic approach does neither. Further, as noted by one respondent to the SPP survey, utilities generally have no way of metering the output of solar panels or other generation behind retail meters.[9]

In summary, SPP's Network Customers, who have operated under the OATT for many years, have generally not construed the OATT to require them to somehow meter and report their retail customers' self-supplied electricity usage at the time of the monthly peak as if it were being supplied by the Network Customer. Their interpretation is correct. And there do not appear to be any transmission customers that interpret Section 34.4 to require them to somehow look behind all of their retail customers' meters and identify all electricity being self-supplied at the time of the monthly peak.

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[6] SPP Network Load Reporting Presentation, Mar. 28, 2018, at Slides 26-32.

[7] *Id.* at Slides 30-32.

[8] SPP Revision Request Recommendation Report RR 158 (Feb. 22, 2016) at 4.

[9] SPP Network Load Reporting Presentation, Mar. 28, 2018 at Slide 31.

THE REJECTION OF PROPOSALS TO AMEND SECTION 34.4 OF THE SPP OATT TO INCLUDE RETAIL CUSTOMERS' SELF-SUPPLIED ELECTRICITY DEMONSTRATES THAT SUCH USAGE IS NOT INCLUDED UNDER THE CURRENT LANGUAGE OF SECTION 34.4.

SPP's recent efforts to amend Section 34.4 of the SPP OATT confirm that the *current* version does not include electricity self-supplied by retail customers. In 2017, the SPP Regional Tariff Working Group (RTWG) took up this issue and proposed revisions to the OATT.[10] The proposed revisions first properly distinguished between Wholesale BTM Generation and Retail BTM Generation.[11] Then the RTWG proposed to amend Section 34.4 to *add* load served by Retail BTM Generation greater than 1 MW to the definition of Monthly Network Load.[12] The proposed tariff amendments put forth in Revision Request (RR) 241 make clear that the current tariff language does not include load served by Retail BTM Generation.

First, the proposed revision specifically added language to *include* load served by Retail BTM Generation larger than 1 MW. This addition would have been unnecessary if the current language already included all load served by Retail BTM Generation. Even more telling, the proposed OATT change was completely silent on load served by Retail BTM Generation of less than 1 MW. Accordingly, the treatment of load self-served by that type of generation would continue as it is under current Section 34.4. The RR 241 Recommendation Report makes clear that it did *not* intend to include load served by Retail BTM Generation smaller than 1 MW, which must mean that the existing language of Section 34.4 does not include it. That is, the omission of any change concerning electricity self-supplied by Retail BTM Generation smaller than 1 MW—coupled with the intent not to include it as Network Load—confirms that the current provision does not treat *any* load self-supplied by Retail BTM Generation as Network Load. Since the proposed amendment to explicitly include load served by Retail BTM Generation that is larger than 1 MW failed, the existing exclusion of *all* load self-supplied by Retail BTM Generation remains in place.

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[10] SPP Revision Request Recommendation Report RR241.

[11] *Id.* at p.5, para B.2 and 3.

[12] *Id.* at p.5, para B.3.

IDENTICAL LANGUAGE IN MISO'S TARIFF HAS BEEN CONSTRUED BY MISO AND FERC TO NOT INCLUDE LOADS SERVED BY RETAIL BTM GENERATION IN ALLOCATING TRANSMISSION COSTS.

The MISO OATT has language that is virtually identical to SPP's on the allocation of "Network Load" costs.[13] When Entergy (which had substantial cogeneration on its system) was integrated into MISO, the issue of how to treat load served by Retail BTM Generation on the Entergy system was specifically addressed. MISO determined and reflected in its QF Integration Plan that, under the MISO OATT, Entergy should only report a QF's *net* usage for purpose of determining Network Load.[14] That is, the electricity produced and consumed on site was not to be added to Network Load. No change to the definition of Network Load was proposed. The MISO QF Integration Plan was presented to FERC in a complaint proceeding, and FERC concluded that the MISO QF Integration Plan merely provided additional detail about how the MISO OATT applies to QFs, so no tariff change was required.[15] In other words, MISO's existing tariff—which is identical on this point to SPP's—does not provide for adding electricity self-supplied behind the retail meter by QF Generation to Network Load, and MISO's Integration Plan simply provided additional detail on that point.[16]

FEDERAL AND STATE REGULATIONS REGARDING QFS PROHIBIT UTILITIES FROM ASSUMING THAT ELECTRICITY SUPPLIED BY A QF IS BEING SERVED BY THE UTILITY AT THE TIME OF PEAK.

Much of the self-supplied electricity in SPP is produced by QFs under the federal and state PURPA regulations. When those regulations were adopted, a number of parties argued that since the utility must stand ready to provide back-up power at any time, a retail customer served by a QF should be allocated transmission and production costs as if it were taking its power from the system rather than from the QF at the time of the monthly peak. Indeed, the Texas PUC identified four utilities in the State of Texas that billed on that basis.[17] Those utilities argued that "in order

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[13] MISO OATT, Section 34.2.

[14] QF Generator Readiness for MISO Relatively Coordination and Market Integration, Oct. 10, 2012 at 17-18.

[15] 155 FERC ¶ 61, 068 (2016) at 76.

[16] MISO is currently finalizing tariff language changes that will further clarify this practice and seek to extend the practice to Wholesale BTM Generation to the extent load served behind the meter by the Wholesale BTM Generation is either lost or cannot be served when the Wholesale BTM Generation is not operating. BTMG/btmg Gross Vs. Net Load for NITS Billing, MISO Planning Advisory Committee, April 17, 2019.

[17] Cogeneration and Small Power Production in Texas, Staff Report, Jul. 1983 at 38.

to be prepared to provide back-up energy at a moment's notice, the utility must invest in generation and transmission facilities to the same degree as if that customer demanded energy on a regular basis."[18] Both FERC and the Texas PUC unequivocally rejected the argument that load served by on-site QF Generation should be treated as if it were instead on the utility's system at the time of peak. In doing so, FERC specifically provided that the rates for standby power "not be based on an assumption (unless supported by factual data) that forced outages or other reductions in output by all qualify facilities on an electric utility's system will occur simultaneously or during the time of system peak, or both."[19]

The Texas PUC has adopted the same position as the FERC on this issue.[20] Shortly after FERC adopted its regulations, the PUC Staff recommended the elimination of back-up rates with 100% ratchets.[21] The PUC subsequently implemented the Staff's recommendations; 100% ratchets were eliminated, and rates for back-up power are not based on the assumption that the full load was taking power from the system at the time of the monthly peak.

Thus, the treatment of electricity provided by BTM Generation that was proposed (and rejected) in SPP's RR 241 has also been rejected by both FERC and the Texas PUC. The rejected SPP proposal would have allocated costs exactly as if the utility were actually providing service to load served by Retail BTM Generation at the time of the Network Customer's monthly coincident peak, without any basis in fact for that assumption. If that type of allocation were adopted by SPP, utilities would then have to develop retail rates for back-up customers that incorporate this assumption, even though that is explicitly prohibited by both state and federal regulations.

FERC ORDER NOS. 888, 888-A, AND 890 ADDRESS LOAD SERVED BY WHOLESALE BTM GENERATION, NOT RETAIL BTM GENERATION.

In FERC Order Nos. 888, 888-A and 890, FERC dealt with arguments by electric cooperatives and municipal utilities that they should be able to net their own Wholesale BTM Generation against their Network Load. Those arguments related to generation that actually used the Network Customer's T&D system to serve the Network Customers load, not electricity that

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[18] *Id*

[19] 18 CFR §292.305(c)(i).

[20] PUC Subst. Rules § 25.242 (k) (3).

[21] Cogeneration and Small Power Production in Texas, Staff Report, Jul. 1983 at 51.

was self-supplied by a retail customer without any use of the Network Customer's system. For example, FERC Order No. 888 noted that those customers with load served behind the meter could obtain alternative transmission service for that load,[22] an option unavailable to a retail customer in SPP served by a QF or rooftop solar. In fact, one of the arguments by those advocating for netting loads served by Wholesale BTM Generation was that doing so was necessary to avoid discriminatory treatment of Network Customers as compared to retail native load customers, whose self-supplied usage would not be allocated transmission costs.[23] Specifically, CEPCO argued that since a retail customer's load served by its own Retail BTM Generation is not included in the allocation of transmission costs, neither should a Network Customer's load served by Wholesale BTM Generation.[24] The requests for rehearing of FERC Order No. 888 also make clear that the co-ops and municipalities were addressing Wholesale BTM Generation, not Retail BTM Generation.[25]

A careful reading of FERC Order Nos. 888, 888-A and 890 shows that FERC was not attempting to reach behind retail customers' meters to capture electricity that was self-supplied by rooftop solar or cogeneration. It is clear from the context of those orders that when FERC referred to "customers," it meant Network Customers, *not* the individual retail customers of those Network Customers.[26] Further, the reference in those orders to "discrete points of delivery" is to the Network Customer's discrete point of delivery, not to the meter of a retail customer. That is made clear by FERC's conclusion that "customers" could exclude particular load if they obtained alternative transmission service (*i.e.* point-to-point),[27] an option that is not available to retail customers of integrated utilities. If there were any question whether FERC Order No. 888 required the inclusion of retail customer's self-supplied electricity, one need only look at FERC's

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[22] FERC Order No. 888 at 297.

[23] FERC Order No. 888 Docket; Initial Comments of Cajun Electric Power Cooperative, Inc. (CEPCO) (Aug. 7, 1995). Noting that QF load behind the meter would not be included in the load ratios shown under the OATT.

[24] *Id.*

[25] For example AMP-Ohio complained that numerous municipalities have installed generation to serve local loads, and they sought an offset against their NITS load, so that those municipalities would not have to rely on point-to-point service. FERC Order No. 888 Docket; Request for Clarification and Rehearing of American Municipal Power-Ohio, Inc. (AMP-OH) at 15-17 (May 24, 1996).

[26] See for example, FERC Order No. 888 at 297; FERC Order No. 888-A at 242, 250; FERC Order No. 890, ¶1614. In each instance and elsewhere throughout the Orders, it is clear that "customer" refers to Network Customers, not retail customers of integrated utilities.

[27] FERC Order No. 888 at 297, 317.

conclusion on the allocation of Network Service costs. FERC noted that the method it ordered is "based on readily available data."[28] That statement would certainly not have been true if FERC were requiring Network Customers to somehow look behind the meter of every retail customer to determine how much electricity it was self-generating from a QF, rooftop solar, or other Retail BTM Generation.

Those misreading the FERC orders ultimately fail to recognize that the term "customer" therein refers to Network Customers, not individual retail customers. If an individual retail customer is serving a portion of its load with rooftop solar or other Retail BTM Generation, that load is not the load of the Network Customer at that time, and there is nothing for the Network Customer to exclude. Nothing in FERC Order Nos. 888, 888-A, or 890 requires looking behind a retail customer's meter to determine whether that customer is providing some or all of its own electricity.

CONCLUSION

The definition of "Monthly Customer's Network Load" in Section 34.4 of the SPP OATT by its own terms does not require the addition of electricity a retail customer produces and consumes on site. A large number of SPP members have for many years properly construed Section 34.4 and based their calculation of their Monthly Network Load on their actual load at the time of the peak, without attempting to add in some estimate of what their retail customers may be self-supplying behind their retail meters. Indeed, it would be impossible to apply an interpretation that required that Network Customers must somehow look behind every residential, commercial, and industrial customer's meter to see if they were generating any of their own electricity and, if so, how much, at the time of the Network Customers' monthly peak. Given that Section 34.4. contains no distinctions on size, that is the only other possible interpretation. FERC has confirmed that MISO's identical provision does not include electricity that is self-supplied by Qualifying Facilities. Further, FERC Order Nos. 888, 888-A, and 890 addressed the treatment of Wholesale BTM Generation, and the record in those dockets demonstrates that electricity self-supplied on site by retail customers was not included. Finally, as to Qualifying Facilities, allocating costs as

[28] FERC Order No. 888 at 296.

if they were taking standby service at the time of monthly peaks would violate federal and state PURPA regulations.

Electricity that is self-supplied by rooftop solar, Qualifying Facilities or other generation behind a retail meter is not a part of a Network Customer's Network Load under Section 34.4 of the SPP OATT.

THOMPSON & KNIGHT LLP

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June 7, 2019

Paul Suskie
Executive Vice President, Regulatory Policy and General Counsel
Charles Locke
Director, Transmission Policy and Rates
Southwest Power Pool
201 Worthen Drive
Little Rock, AR 72223-4936

Re: Treatment of Electricity Self-Supplied by Retail Customers

Dear Paul and Charles:

This is to follow up on our discussion in March concerning the treatment under Section 34.4 of the SPP OATT of electricity that is produced and consumed on site behind a retail customer's meter. We have researched the issue since that call, and we do not believe that such self-supplied behind-the-meter usage is properly included in assessing transmission charges. This conclusion is based on the following points:

- **Section 34.4 of the SPP OATT by its terms does not include electricity self-supplied by a retail customer in the definition of "Network Customer's Monthly Network Load."**

- **SPP's Network Customers have generally not construed Section 34.4 to include retail customers' self-supplied electricity.**

- **The rejection of proposals to amend Section 34.4 of the SPP OATT to include retail customers' self-supplied electricity demonstrates that such usage is not included under the current language of Section 34.4.**

- **Identical language in MISO's tariff has been construed by MISO and FERC to not include retail customers' self-supplied electricity in allocating transmission costs.**

- **Federal and state regulations prohibit utilities from assuming that electricity supplied by a QF is being served by the utility at the time of peak.**

- **FERC Order Nos. 888, 888-A, and 890 address load served by the self-generation of wholesale customers, not self-supplied electricity of retail customers.**

Attached is a memorandum elaborating on these points.

It is our understanding that SPP has not given any formal direction one way or the other to its Network Customers on this issue. As a result, Network Customers are applying different methodologies in calculating their Monthly Network Load, resulting in some Network Customers paying more than they should and some paying less than they should. We ask that SPP clarify to its Network Customers that electricity produced and consumed on site behind a retail customer's meter is not to be included in Monthly Network Load under Section 34.4. of the SPP OATT.

Thank you for your consideration of this request. We would be happy to discuss this issue further at your convenience.

Very truly yours,

Rex D. VanMiddlesworth
Katie Coleman

Counsel for Texas Industrial Energy Consumers

RV:dr

From: VanMiddlesworth, Rex
Sent: Monday, June 10, 2019 8:48 AM
To: 'Paul Suskie'
Subject: Memo on treatment self-supplied electricity
Attachments: SPP-BTM Memo.pdf

Paul, the memo I forwarded Friday was not privileged, of course, but I did not remove the privilege block in the corner. Here's a version with that removed, but I have no concerns about circulating either version. The text is the same. Best, Rex

Rex VanMiddlesworth | Thompson & Knight LLP
Partner

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THOMPSON & KNIGHT LLP

TO: Texas Industrial Energy Consumers (TIEC)

FROM: Rex D. VanMiddlesworth
Katie Coleman

DATE: June 7, 2019

SUBJECT: Treatment of Electricity Self-Supplied by Retail Customers

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INTRODUCTION

This memorandum addresses the Southwest Power Pool's (SPP) treatment of electricity produced and consumed on-site behind a retail customer's meter (Retail BTM Generation) in assessing transmission charges under Section 34.4 of the SPP Open Access Transmission Tariff (OATT). This analysis is limited to electricity that is produced and consumed on-site by a retail customer without the use of any SPP Network Customer's[1] electric grid. This Retail-BTM-Generation issue is distinct from the issues related to load served by generation located behind an SPP Network Customer's Delivery Point but in front of any retail customer's meter (Wholesale BTM Generation), which *does* require use of the Network Customer's grid.[2] It is also distinct from the situation for Independent System Operators or Regional Transmission Organizations where retail choice has been introduced and a retail customer itself may be the "Network Customer" under the applicable OATT. There is currently no retail customer choice within the SPP footprint.

Retail BTM Generation takes a variety of forms, including residential and commercial rooftop solar installations and qualifying small power production and cogeneration facilities (QFs). Generally, this generation is not economically dispatched; it is used as available to provide electricity behind a customer's retail meter. In some situations, particularly with QFs that are highly integrated with on-site industrial processes, some of the load served by the Retail BTM Generation will never be served from the grid, as any reduction in electricity and steam production

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[1] "Network Customer" is defined as "an entity receiving transmission service pursuant to [SPP's] Network Integration Transmission Service..." SPP OATT, Section 1, Definitions.

[2] This distinction between generation behind a retail meter and generation in front of a retail meter was recognized in the most recent Revision Request developed by the SPP Regional Tariff Working Group. *See* SPP Revision Request Recommendation Report No. 241 at 5.

from the QF will be accompanied by a reduction in electricity usage. Often the utility has no way of knowing the amount of a retail customer's on-site usage that is being served by that retail customer's own generation, since the utility is neither providing generation nor transmission and distribution (T&D) services for that usage.

Wholesale BTM Generation, on the other hand, is typically electric utility generation that is indistinguishable from a Network Resource. Rather than being fully utilized whenever available, Wholesale BTM Generation is generally economically dispatched by the Network Customer, as is other electric utility generation. Further, Wholesale BTM Generation provides electricity that the Network Customer then transmits over its electrical grid to serve the Network Customer's load.

The issues relating to Wholesale BTM Generation have been addressed on a number of occasions by the Federal Energy Regulatory Commission (FERC), which has held that a Network Customer's actual load at the time of its monthly peak is not to be reduced by the amount of its Wholesale BTM Generation.[3] Neither the language nor the rationales of those decisions, however, are applicable to electricity produced and consumed on-site by a retail customer, which is neither being provided by the Network Customer nor using its T&D system and, accordingly, is simply not a part of the Network Customer's load. With respect to SPP, neither the specific provisions of the SPP OATT nor the decisions of FERC support including a retail customer's on-site self-supplied electricity as "Network Load" for purposes of assessing transmission charges under Section 34.4 of the SPP OATT.

SECTION 34.4 OF THE SPP OATT BY ITS TERMS DOES NOT INCLUDE ELECTRICITY SELF-SUPPLIED BY A RETAIL CUSTOMER IN THE DEFINITION OF "NETWORK CUSTOMER'S MONTHLY NETWORK LOAD."

SPP assesses transmission charges to regulated utilities as "Network Customers," based on their "Network Load." In SPP, Network Customers are utilities, municipalities, and cooperatives, not end-use customers. The definition of "Network Customer's Monthly Network Load" in Section 34.4 of the SPP OATT does not include electricity that is generated and consumed on-site by a retail customer. The SPP OATT defines "Network Customer's Monthly Network Load" as follows:

[3] FERC Order Nos. 888, 888-A, and 890.

> The Network Customer's monthly Network Load is its hourly load (60 minute, clock-hour); provided, however, the Network Customer's monthly Network Load will be *its* hourly load coincident with the monthly peak of the Zone where the Network Customer load is physically located.[4]

Note that the definition only includes the *Network Customer's* hourly load coincident with the monthly peak. The "Network Customer" is defined as the "entity receiving transmission service pursuant to [SPP's] Network Integration Transmission Service under Part III of the Tariff."[5] If a retail customer of an integrated utility is generating its own electricity behind its own meter for its own use at the time of a Network Customer's monthly peak, that use is simply not a part of the *Network Customer's* "hourly load coincident with the monthly peak." That applies whether the electricity is provided by rooftop solar or by a qualifying facility. The Network Customer is simply not providing the electricity produced and consumed on-site by a retail customer. Indeed, the Network Customer would likely not even know how much electricity, if any, the retail customer is providing to itself at the time of the monthly peak, since electricity that is self-provided is generally not even metered by the utility. In any event, electricity that is being self-provided behind a retail meter is not being provided by the utility, nor is it being delivered over the utility's T&D system. Accordingly, it cannot be fairly characterized as the *utility's* "hourly load coincident with the monthly peak."

Importantly, the above analysis does not apply to whatever portion of a Network Customer's load is being served by Wholesale BTM Generation—which does use the Network Customer's transmission or distribution system to deliver electricity to retail customers of the Network Customer. That load *is* a part of the Network Customer's load. To the extent that load is being served by Wholesale BTM Generation at the time of the monthly coincident peak, it would fall within the definition of "Network Customer's Monthly Network Load" under Section 34.4. That is not true, however, of electricity being provided by a retail customer's own on-site generation at the time of the monthly coincident peak.

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[4] SPP OATT, Section 34.4. (italics supplied)

[5] SPP OATT, Section 1, Definitions.

SPP'S NETWORK CUSTOMERS HAVE GENERALLY NOT CONSTRUED SECTION 34.4 TO INCLUDE RETAIL CUSTOMERS' SELF-SUPPLIED ELECTRICITY.

Numerous Network Customers in SPP have properly calculated their Monthly Network Load without adding in electricity that they do not supply or deliver, but that is instead self-supplied by retail customers. SPP recently surveyed its 62 transmission customers with Network Load. Those results indicate that a large number of SPP's Network Customers are properly applying Section 34.4 of the OATT and not attempting to reach behind their customers' retail meters to determine if those customers are supplying any of their own electricity.[6] The responses make clear that those Network Customers have reviewed and considered the SPP OATT and do not read it as requiring the addition of their retail customers' self-supplied electricity to the Network Customer's actual Network Load.[7]

It appears that at least one SPP utility (SPS) has adopted a different interpretation, at least in part. SPS appears to have been identifying and adding at least some of its customers' self-supplied electricity to its Network Load calculation.[8] But even SPS does not apply Section 34.4 to include all electricity self-supplied by its customers, as SPS apparently does not identify and include load served by rooftop solar or other small customer generation. But since Section 34.4 of the SPP OATT makes no distinction between large and small self-supplied loads, they must either all be included or all be excluded. SPS's idiosyncratic approach does neither. Further, as noted by one respondent to the SPP survey, utilities generally have no way of metering the output of solar panels or other generation behind retail meters.[9]

In summary, SPP's Network Customers, who have operated under the OATT for many years, have generally not construed the OATT to require them to somehow meter and report their retail customers' self-supplied electricity usage at the time of the monthly peak as if it were being supplied by the Network Customer. Their interpretation is correct. And there do not appear to be any transmission customers that interpret Section 34.4 to require them to somehow look behind all of their retail customers' meters and identify all electricity being self-supplied at the time of the monthly peak.

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[6] SPP Network Load Reporting Presentation, Mar. 28, 2018, at Slides 26-32.

[7] *Id.* at Slides 30-32.

[8] SPP Revision Request Recommendation Report RR 158 (Feb. 22, 2016) at 4.

[9] SPP Network Load Reporting Presentation, Mar. 28, 2018 at Slide 31.

THE REJECTION OF PROPOSALS TO AMEND SECTION 34.4 OF THE SPP OATT TO INCLUDE RETAIL CUSTOMERS' SELF-SUPPLIED ELECTRICITY DEMONSTRATES THAT SUCH USAGE IS NOT INCLUDED UNDER THE CURRENT LANGUAGE OF SECTION 34.4.

SPP's recent efforts to amend Section 34.4 of the SPP OATT confirm that the *current* version does not include electricity self-supplied by retail customers. In 2017, the SPP Regional Tariff Working Group (RTWG) took up this issue and proposed revisions to the OATT.[10] The proposed revisions first properly distinguished between Wholesale BTM Generation and Retail BTM Generation.[11] Then the RTWG proposed to amend Section 34.4 to *add* load served by Retail BTM Generation greater than 1 MW to the definition of Monthly Network Load.[12] The proposed tariff amendments put forth in Revision Request (RR) 241 make clear that the current tariff language does not include load served by Retail BTM Generation.

First, the proposed revision specifically added language to *include* load served by Retail BTM Generation larger than 1 MW. This addition would have been unnecessary if the current language already included all load served by Retail BTM Generation. Even more telling, the proposed OATT change was completely silent on load served by Retail BTM Generation of less than 1 MW. Accordingly, the treatment of load self-served by that type of generation would continue as it is under current Section 34.4. The RR 241 Recommendation Report makes clear that it did *not* intend to include load served by Retail BTM Generation smaller than 1 MW, which must mean that the existing language of Section 34.4 does not include it. That is, the omission of any change concerning electricity self-supplied by Retail BTM Generation smaller than 1 MW—coupled with the intent not to include it as Network Load—confirms that the current provision does not treat *any* load self-supplied by Retail BTM Generation as Network Load. Since the proposed amendment to explicitly include load served by Retail BTM Generation that is larger than 1 MW failed, the existing exclusion of *all* load self-supplied by Retail BTM Generation remains in place.

[10] SPP Revision Request Recommendation Report RR 241.

[11] *Id.* at p.5, para B.2 and 3.

[12] *Id* at p.5, para B.3.

IDENTICAL LANGUAGE IN MISO'S TARIFF HAS BEEN CONSTRUED BY MISO AND FERC TO NOT INCLUDE LOADS SERVED BY RETAIL BTM GENERATION IN ALLOCATING TRANSMISSION COSTS.

The MISO OATT has language that is virtually identical to SPP's on the allocation of "Network Load" costs.[13] When Entergy (which had substantial cogeneration on its system) was integrated into MISO, the issue of how to treat load served by Retail BTM Generation on the Entergy system was specifically addressed. MISO determined and reflected in its QF Integration Plan that, under the MISO OATT, Entergy should only report a QF's *net* usage for purpose of determining Network Load.[14] That is, the electricity produced and consumed on site was not to be added to Network Load. No change to the definition of Network Load was proposed. The MISO QF Integration Plan was presented to FERC in a complaint proceeding, and FERC concluded that the MISO QF Integration Plan merely provided additional detail about how the MISO OATT applies to QFs, so no tariff change was required.[15] In other words, MISO's existing tariff—which is identical on this point to SPP's—does not provide for adding electricity self-supplied behind the retail meter by QF Generation to Network Load, and MISO's Integration Plan simply provided additional detail on that point.[16]

FEDERAL AND STATE REGULATIONS REGARDING QFS PROHIBIT UTILITIES FROM ASSUMING THAT ELECTRICITY SUPPLIED BY A QF IS BEING SERVED BY THE UTILITY AT THE TIME OF PEAK.

Much of the self-supplied electricity in SPP is produced by QFs under the federal and state PURPA regulations. When those regulations were adopted, a number of parties argued that since the utility must stand ready to provide back-up power at any time, a retail customer served by a QF should be allocated transmission and production costs as if it were taking its power from the system rather than from the QF at the time of the monthly peak. Indeed, the Texas PUC identified four utilities in the State of Texas that billed on that basis.[17] Those utilities argued that "in order

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[13] MISO OATT, Section 34.2.

[14] QF Generator Readiness for MISO Relatively Coordination and Market Integration, Oct. 10, 2012 at 17-18.

[15] 155 FERC ¶ 61, 068 (2016) at 76.

[16] MISO is currently finalizing tariff language changes that will further clarify this practice and seek to extend the practice to Wholesale BTM Generation to the extent load served behind the meter by the Wholesale BTM Generation is either lost or cannot be served when the Wholesale BTM Generation is not operating. BTMG/btmg Gross Vs. Net Load for NITS Billing, MISO Planning Advisory Committee, April 17, 2019.

[17] Cogeneration and Small Power Production in Texas, Staff Report, Jul. 1983 at 38.

to be prepared to provide back-up energy at a moment's notice, the utility must invest in generation and transmission facilities to the same degree as if that customer demanded energy on a regular basis."[18] Both FERC and the Texas PUC unequivocally rejected the argument that load served by on-site QF Generation should be treated as if it were instead on the utility's system at the time of peak. In doing so, FERC specifically provided that the rates for standby power "not be based on an assumption (unless supported by factual data) that forced outages or other reductions in output by all qualify facilities on an electric utility's system will occur simultaneously or during the time of system peak, or both."[19]

The Texas PUC has adopted the same position as the FERC on this issue.[20] Shortly after FERC adopted its regulations, the PUC Staff recommended the elimination of back-up rates with 100% ratchets.[21] The PUC subsequently implemented the Staff's recommendations; 100% ratchets were eliminated, and rates for back-up power are not based on the assumption that the full load was taking power from the system at the time of the monthly peak.

Thus, the treatment of electricity provided by BTM Generation that was proposed (and rejected) in SPP's RR 241 has also been rejected by both FERC and the Texas PUC. The rejected SPP proposal would have allocated costs exactly as if the utility were actually providing service to load served by Retail BTM Generation at the time of the Network Customer's monthly coincident peak, without any basis in fact for that assumption. If that type of allocation were adopted by SPP, utilities would then have to develop retail rates for back-up customers that incorporate this assumption, even though that is explicitly prohibited by both state and federal regulations.

FERC ORDER NOS. 888, 888-A, AND 890 ADDRESS LOAD SERVED BY WHOLESALE BTM GENERATION, NOT RETAIL BTM GENERATION.

In FERC Order Nos. 888, 888-A and 890, FERC dealt with arguments by electric cooperatives and municipal utilities that they should be able to net their own Wholesale BTM Generation against their Network Load. Those arguments related to generation that actually used the Network Customer's T&D system to serve the Network Customers load, not electricity that

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[18] *Id.*

[19] 18 CFR §292.305(c)(i).

[20] PUC Subst. Rules § 25.242 (k) (3).

[21] Cogeneration and Small Power Production in Texas, Staff Report, Jul. 1983 at 51.

was self-supplied by a retail customer without any use of the Network Customer's system. For example, FERC Order No. 888 noted that those customers with load served behind the meter could obtain alternative transmission service for that load,[22] an option unavailable to a retail customer in SPP served by a QF or rooftop solar. In fact, one of the arguments by those advocating for netting loads served by Wholesale BTM Generation was that doing so was necessary to avoid discriminatory treatment of Network Customers as compared to retail native load customers, whose self-supplied usage would not be allocated transmission costs.[23] Specifically, CEPCO argued that since a retail customer's load served by its own Retail BTM Generation is not included in the allocation of transmission costs, neither should a Network Customer's load served by Wholesale BTM Generation.[24] The requests for rehearing of FERC Order No. 888 also make clear that the co-ops and municipalities were addressing Wholesale BTM Generation, not Retail BTM Generation.[25]

A careful reading of FERC Order Nos. 888, 888-A and 890 shows that FERC was not attempting to reach behind retail customers' meters to capture electricity that was self-supplied by rooftop solar or cogeneration. It is clear from the context of those orders that when FERC referred to "customers," it meant Network Customers, *not* the individual retail customers of those Network Customers.[26] Further, the reference in those orders to "discrete points of delivery" is to the Network Customer's discrete point of delivery, not to the meter of a retail customer. That is made clear by FERC's conclusion that "customers" could exclude particular load if they obtained alternative transmission service (*i.e.* point-to-point),[27] an option that is not available to retail customers of integrated utilities. If there were any question whether FERC Order No. 888 required the inclusion of retail customer's self-supplied electricity, one need only look at FERC's

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[22] FERC Order No. 888 at 297.

[23] FERC Order No. 888 Docket; Initial Comments of Cajun Electric Power Cooperative, Inc. (CEPCO) (Aug. 7, 1995). Noting that QF load behind the meter would not be included in the load ratios shown under the OATT.

[24] *Id.*

[25] For example AMP-Ohio complained that numerous municipalities have installed generation to serve local loads, and they sought an offset against their NITS load, so that those municipalities would not have to rely on point-to-point service. FERC Order No. 888 Docket; Request for Clarification and Rehearing of American Municipal Power-Ohio, Inc. (AMP-OH) at 15-17 (May 24, 1996).

[26] See for example, FERC Order No. 888 at 297; FERC Order No. 888-A at 242, 250; FERC Order No. 890, ¶1614. In each instance and elsewhere throughout the Orders, it is clear that "customer" refers to Network Customers, not retail customers of integrated utilities.

[27] FERC Order No. 888 at 297, 317.

conclusion on the allocation of Network Service costs. FERC noted that the method it ordered is "based on readily available data."[28] That statement would certainly not have been true if FERC were requiring Network Customers to somehow look behind the meter of every retail customer to determine how much electricity it was self-generating from a QF, rooftop solar, or other Retail BTM Generation.

Those misreading the FERC orders ultimately fail to recognize that the term "customer" therein refers to Network Customers, not individual retail customers. If an individual retail customer is serving a portion of its load with rooftop solar or other Retail BTM Generation, that load is not the load of the Network Customer at that time, and there is nothing for the Network Customer to exclude. Nothing in FERC Order Nos. 888, 888-A, or 890 requires looking behind a retail customer's meter to determine whether that customer is providing some or all of its own electricity.

CONCLUSION

The definition of "Monthly Customer's Network Load" in Section 34.4 of the SPP OATT by its own terms does not require the addition of electricity a retail customer produces and consumes on site. A large number of SPP members have for many years properly construed Section 34.4 and based their calculation of their Monthly Network Load on their actual load at the time of the peak, without attempting to add in some estimate of what their retail customers may be self-supplying behind their retail meters. Indeed, it would be impossible to apply an interpretation that required that Network Customers must somehow look behind every residential, commercial, and industrial customer's meter to see if they were generating any of their own electricity and, if so, how much, at the time of the Network Customers' monthly peak. Given that Section 34.4. contains no distinctions on size, that is the only other possible interpretation. FERC has confirmed that MISO's identical provision does not include electricity that is self-supplied by Qualifying Facilities. Further, FERC Order Nos. 888, 888-A, and 890 addressed the treatment of Wholesale BTM Generation, and the record in those dockets demonstrates that electricity self-supplied on site by retail customers was not included. Finally, as to Qualifying Facilities, allocating costs as

[28] FERC Order No. 888 at 296.

if they were taking standby service at the time of monthly peaks would violate federal and state PURPA regulations.

Electricity that is self-supplied by rooftop solar, Qualifying Facilities or other generation behind a retail meter is not a part of a Network Customer's Network Load under Section 34.4 of the SPP OATT.

From: VanMiddlesworth, Rex
Sent: Monday, March 4, 2019 4:59 PM
To: 'Charles Locke'; 'Paul Suskie'
Subject: SPP OATT and behind-the-meter issues

Paul, I enjoyed visiting with you today. Thanks for taking the time to talk.

Charles, I'll take you up on visiting later this week about this. Would you be available Friday, preferably morning. If so, just let me know a good time to call you.

I'm a little familiar with this issue from working with MISO, which has a similar OATT. MISO considered counting retail behind-the-meter load for a time, but it is not doing so. I understand that it is distinguishing between retail and wholesale BTM load.

Paul asked me to set out my thoughts on the calculation of "Network Customer's Monthly Network Load." It's possible I'm missing something in the tariff, but this is how I analyzed it:

The issue is the interpretation of Section 34.4 of the SPP OATT, which provides as follows:

34.4 Determination of Network Customer's Monthly Network Load:

The Network Customer's monthly Network Load is its hourly load (60 minute, clock-hour); provided, however, the Network Customer's monthly Network Load will be its hourly load coincident with the monthly peak of the Zone where the Network Customer load is physically located. Where a Network Customer has Network Load in more than one Zone, the monthly Network Load will be determined separately for each Zone. Where a Network Customer has designated Network Load not physically interconnected with the Transmission System under Section 31.4, the Network Customer's monthly Network Load will be its hourly load coincident with the monthly peak of the Zone that is the basis for charges under Schedule 9.

Application of Existing SPP OATT

As noted on pp. 30-32 of SPP's March 28, 2018, PowerPoint presentation, numerous SPP Network Customers do not include retail load served by behind-the-retail-meter-generation in their determination of Monthly Network Load. That approach is not only commonplace, but, more importantly, it is consistent with the SPP OATT's definition of "Monthly Network Load" in Section 34.4. Specifically, the Monthly Network Load for a Network Customer is the Network Customer's "hourly load coincident with the monthly peak of the Zone where the Network Customer is physically located." Potential load that is not taking service from a utility at the time of the monthly peak is simply not a part of that utility's monthly load at the time of the peak, whether it is an industrial customer experiencing an outage or that has reduced its load from its NCP level, a residential customer with rooftop solar (or that is not running all its appliances at the time of peak), or an industrial facility that is using its own cogeneration at the time of peak. The OATT defines Monthly Network Load as load actually being served by the utility at the time of the monthly peak

I understand that the issue of behind-the-meter load has arisen in SPP (and elsewhere) largely in the context of municipal utilities or co-ops that have their own generation to serve their retail load. That is a very different situation than a retail customer that serves its own load behind a retail meter. A municipal utility is a "Network Customer," and therefore all load served by it at the time of a monthly peak would fall within the definition of Customer's Monthly Network Load in Section 34.4 of the SPP OATT. That is, the Network Customer (the Muny) is actually serving that load at

the time of the monthly peak (albeit partially with the Muny's own generation). With respect to a retail customer's load served behind a retail meter, the Network Customer is simply not serving that load at the time of the monthly peak. Accordingly, it does not come within the terms of Monthly Network Load in Section 34.4.

Treatment of QFs

The allocation of costs to load served by QFs was an important issue in the development of the PURPA regulations concerning rates for Qualifying Facilities. The concern was that utilities would assign costs for back-up power as if the load served by the QF was always taking service simultaneous with the system peak, and the PURPA regulations specifically prohibited that assumption, unless it was actually supported by factual data. 18 CFR 292.305. Treating QFs as if they were taking back-up power at the time of the monthly peak would impose that very assumption. That is, transmission costs would be assigned to load served by QFs as if the load required back-up power for each of the 12 monthly peaks.

The FERC comments issued concurrently with the PURPA regulations make this point even more clearly, stating that a QF may receive standby power "at a nondiscriminatory rate which reflects the probability that the qualifying facility will or will not contribute to the need for and use of utility capacity." 45 Fed. Reg. No. 38, p 12228 (Feb 25, 1980) (emphasis supplied). The use of actual 12 CP loads imposed on the SPP transmission system over time reflects such a probabilistic analysis, but assigning costs to load served by retail behind-the-meter generation would instead assume a 100% probability that the cogeneration was experiencing an outage at the time of the system peak.

You may be familiar with the fact that FERC has determined that the PURPA-Put regulations no longer apply if there is a functioning wholesale market. That decision, however, does not apply to the other PURPA regulations, such as those discussed above.

Charles (and Paul), thanks for taking a look at this. Again, I'm no expert on the SPP OATT, and I may be missing something. I look forward to talking with you about this. Best, Rex

Rex VanMiddlesworth | Thompson & Knight LLP
Partner

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> **From:** Charles Locke
> **Sent:** Monday, March 04, 2019 9:49 AM
> **To:** VanMiddlesworth, Rex
> **Cc:** Paul Suskie
> **Subject:** Re: **External Email** RE: SPP OATT and behind-the-meter issues
>
> Rex,
>
> I would be happy to discuss this. However, I will be tied up in regulatory proceedings for a few days. I may have some availability late in the week.
>
> Charles
>
> Sent from my iPhone
>
> On Mar 4, 2019, at 10:04 AM, VanMiddlesworth, Rex <RexVanM@tklaw.com> wrote:

Thanks, Paul, and thanks for including Charles. I had seen those slides and had some questions. Would you and Charles be available for a call at around 2:30 today? If not, just let me know a convenient time and I'll make it work. Thanks again. Rex

Rex VanMiddlesworth | Thompson & Knight LLP
Partner

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From: Paul Suskie <psuskie@spp.org>
Sent: Sunday, March 03, 2019 4:16 PM
To: VanMiddlesworth, Rex <RexVanM@tklaw.com>
Cc: Charles Locke <clocke@spp.org>
Subject: RE: SPP OATT and behind-the-meter issues

Thank Rex for reaching out.

My office number is 501-688-2535.

Cc'ing Charles Locke as he has some slides that he has provided to stakeholder about FERC BTM netting rules. Including some cases upon which FERC has decided.

Paul

From: VanMiddlesworth, Rex [mailto:RexVanM@tklaw.com]
Sent: Friday, March 01, 2019 4:31 PM
To: Paul Suskie
Subject: **External Email** SPP OATT and behind-the-meter issues

Hi Paul,

Bill Grant suggested I visit with you. I'm working with some of the industrial customers in the SPS and SWEPCO areas on the issue of the treatment of generation serving behind-the-meter retail load. I know you're at the HITT meeting today, but are you available sometime Monday for a short call on this? I'm trying to get a better handle on the relevant portions of the SPP OATT and what FERC has told SPP on this issue. If you have a few minutes Monday, just name the time and I'll make it work. Thanks, Rex

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Partner

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From: VanMiddlesworth, Rex
Sent: Monday, March 4, 2019 3:40 PM
To: 'Paul Suskie'
Subject: RE: SPP OATT and behind-the-meter issues

Hi Paul, I left a VM. Please give me a call when you get a minute at 512-404-6701. Thanks. Rex

Rex VanMiddlesworth | Thompson & Knight LLP
Partner

98 San Jacinto Blvd., Suite 1900, Austin, TX 78701
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From: Paul Suskie
Sent: Sunday, March 03, 2019 4:16 PM
To: VanMiddlesworth, Rex
Cc: Charles Locke
Subject: RE: SPP OATT and behind-the-meter issues

Thank Rex for reaching out.

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